

In the Matter of)
)
Service Quality, Customer) WC Docket No. 08-190
Satisfaction, Infrastructure and)
Operating Data Gathering)

REPLY COMMENTS OF THE RURAL NEBRASKA LOCAL EXCHANGE CARRIERS
ON THE INFORMATION COLLECTIONS

Attorney for the Rural Nebraska Local
Exchange Carriers

December 15, 2008

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SUMMARY

Great Plains Communications, Inc., Hemingford Cooperative Telephone Company, Keystone-Arthur Telephone Company, K&M Telephone Company, Inc., Nebraska Central Telephone Company and Northeast Nebraska Telephone Company (collectively, the Rural Nebraska LECs), by their attorney, hereby submit these Paperwork Reduction Act (PRA) and Small Business Paperwork Relief Act of 2002 (SBPRA) reply comments on the information collections contained in the Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 08-203, released September 6, 2008 (Order/NPRM), in the captioned proceeding.

In their Comments, the Rural Nebraska LECs noted that the Office of Management and Budget (OMB) rejected the Commission's prior attempt to extend some of the ARMIS Reports to small LECs. Then, as now, the Commission proposed substantial paperwork burdens with no significant benefits. Most of the commenters in this proceeding opposed the proposed reporting requirements due, in part, to the Commission's failure to identify a need for the data collection. Some commenters supported the reporting requirements, but they failed to demonstrate any federal needs for the data and failed to acknowledge the substantial burdens of compliance. The Rural Nebraska LECs again respectfully request the OMB to decline to approve these proposed reports, and request the Commission to exempt small ILECs and their affiliates.

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204, 07-273, 07-21, FCC 08-203 (rel. Sept. 6, 2008) [hereinafter Order/NPRM].

² The NPRM also does not comply with the Regulatory Flexibility Act. This issue is addressed in two separate comments filed today by the Rural Nebraska LECs. Reply Comments of the Rural Nebraska Local Exchange Carriers, WC Docket No. 08-190, FCC 08-203 (filed Dec. 15, 2008); Reply Comments of the Rural Nebraska Local Exchange Carriers Comments on the Initial Regulatory Flexibility Analysis, WC Docket No. 08-190, FCC 08-203 (filed Dec. 15, 2008).

BACKGROUND

The Rural Nebraska LECs are small ILECs serving rural areas of Nebraska. In addition to providing local exchange service, some of the Rural Nebraska LECs have affiliates that provide broadband service, long distance service, and in some instances, cable TV service.

Several of the Rural Nebraska LECs serve fewer than 1000 lines. They all have fewer than 1500 employees (the size threshold for small businesses under the Regulatory Flexibility Act).³ Some of the Rural Nebraska LECs have fewer than 25 employees (the size threshold for small businesses under the Small Business Paperwork Relief Act of 2002).⁴ Their affiliates are of similar size, or smaller. Indeed, the LECs typically share staff with their affiliates. Given their small size and correspondingly small staff, the Rural Nebraska LECs and their affiliates are especially impacted by any increased regulatory reporting requirements.

I. THERE IS NO FEDERAL NEED FOR THE PROPOSED REPORTING REQUIREMENTS

In their Comments, the Rural Nebraska LECs showed that the Commission failed to identify a need for the proposed information

³ NPRM app. C para. 5.

⁴ Id. para. 44.

collections. Many of the commenters pointed out this omission as well.⁵

Only four parties attempted to support the proposed reporting requirements. They are the Michigan Public Service Commission (MPSC), the Texas Office of Public Utility Counsel (TxOPC), the California Public Utilities Commission (CPUC), and Free Press. As shown in the Reply Comments of the Rural Nebraska LECs, the MPSC and TxOPC provided only state-level uses for federal reporting requirements - contrary to the Commission's warning that state reasons would not suffice. The CPUC mimicked the Commission's own generic statements about federal uses for the data - but never explained specifically what data is needed, how that data would be used, and why the data cannot be obtained from other sources. In addition, as shown by Verizon, all of the data requested by the CPUC is useless for the CPUC's proposed purposes.⁶

Free Press made the fatal error of claiming that there would be no additional burdens for collecting the data.⁷ Free Press failed to acknowledge that the Commission could require huge data

⁵ E.g., Verizon and Verizon Wireless Comments at 2 (there is no need for ARMIS data); AT&T Comments at 3 (FCC must identify a specific need for the data); Sprint Nextel Comments at 4.

⁶ See the Reply Comments of the Rural Nebraska LECs filed today.

⁷ Free Press Comments at 8.

collections from thousands of carriers that currently do not collect and report such data. As shown in their Reply Comments, the Rural Nebraska LECs estimate that compliance with the proposed reporting requirements could cost hundreds of millions of dollars, depending on the reporting requirements adopted and the range of carriers required to submit the reports.

In sum, the commenters favoring the proposed reporting requirement failed to demonstrate significant benefits to collecting the data, especially in view of the substantial burdens of compliance.

II. THE OMB SHOULD REJECT THE PROPOSED RULES, JUST AS IT NIXED A MORE LIMITED VERSION OF THE REPORTING REQUIREMENTS IN 2001

Eight years ago, the OMB declined to approve similar ARMIS-type reporting requirements that the Commission proposed to extend to small ILECs,⁸ because the Commission had not shown a significant benefit for the considerable cost of compliance.⁹ Similarly, in this proceeding, there would be a considerable cost for the reporting requirement, and no significant benefit has been shown. To minimize the burdens, the Rural Nebraska LECs,

⁸ 2000 Biennial Regulatory Review - Telecommunications Service Quality Reporting Requirements, Notice of Proposed Rulemaking, CC Docket. No. 00-229, 15 FCC Rcd. 22,113, 22,122 (2000).

⁹ Letter from Edward Springer, OMB, to Judy Boley, FCC, CC Docket No. 00-229 (Jan. 29, 2001).

the Vermont ITCs and OPASTCO/WTB requested the OMB to reject the proposed rules, or at least, support an exemption for these small companies.

But small ILECs, such as the Rural Nebraska LECs, may have affiliates that could become subject to the proposed reporting requirements, and all of these affiliates are smaller than the LECs themselves. The Rural Nebraska LECs clarify that if the OMB were to carve out an exemption for small ILECs, the exemption should specifically state that it applies to "small ILECs and their affiliates."¹⁰

III. THE SBPRA ALSO COMPELS AN EXEMPTION FOR SMALL ILECS AND THEIR AFFILIATES

For similar reasons, the SBPRA compels an exemption for "small ILECs and their affiliates." Many of the Rural Nebraska LECs, like many small ILECs, have fewer than 25 employees. In addition, the affiliates of ILECs are smaller than the ILECs themselves, often sharing some of the ILEC staff, instead of having separate full-time employees. Just as many of the small ILECs have fewer than 25 employees, the affiliates of those small ILECs have fewer than 25 employees. Pursuant to the SBPRA, the information burden could be reduced by exempting these small

¹⁰ The Rural Nebraska LECs explain this exemption in more detail in their Reply Comments filed today.

If small ILECs and their affiliates with fewer than 25 employees are exempted, it would make sense to similarly exempt all small ILECs and their affiliates, because they all would face similar burdens of compliance.

Neither the Commission nor any of the commenters has shown a significant benefit to the proposed reporting requirements - although the information collections would clearly be burdensome. Just as the OMB did not approve the unjustified extension of ARMIS reports in 2001, the Rural Nebraska LECs respectfully request the OMB to do the same here and reject the extension of ARMIS reports to small ILECs and their affiliates in this proceeding. Alternatively, the Commission should exempt small ILECs and their affiliates pursuant to the SBPRA.

By /s/
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December 15, 2008

CERTIFICATE OF SERVICE

I, Susan J. Bahr, Law Offices of Susan Bahr, PC, certify that on this 15th day of December, 2008, I have sent a copy of the foregoing to the following:

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Susan J. Bahr